

Federal Acquisition Regulation

25.001

- 25.502 Application.
- 25.503 Group offers.
- 25.504 Evaluation examples.
- 25.504-1 Buy American Act.
- 25.504-2 Trade Agreements Act/Caribbean Basin Trade Initiative/FTAs.
- 25.504-3 FTA/Israeli Trade Act.
- 25.504-4 Group award basis.

Subpart 25.6—American Recovery and Reinvestment Act—Buy American Act—Construction Materials

- 25.600 Scope of subpart.
- 25.601 Definitions.
- 25.602 Policy.
- 25.602-1 Section 1605 of the Recovery Act.
- 25.602-2 Buy American Act.
- 25.603 Exceptions.
- 25.604 Preaward determination concerning the inapplicability of section 1605 of the Recovery Act or the Buy American Act.
- 25.605 Evaluating offers of foreign construction material.
- 25.606 Postaward determinations.
- 25.607 Noncompliance.

Subpart 25.7—Prohibited Sources

- 25.700 Scope of subpart.
- 25.701 Restrictions administered by the Department of the Treasury on acquisitions of supplies or services from prohibited sources.
- 25.702 Prohibition on contracting with entities that conduct restricted business operations in Sudan.
- 25.702-1 Definitions.
- 25.702-2 Certification.
- 25.702-3 Remedies.
- 25.702-4 Waiver.
- 25.703 Prohibition on contracting with entities that engage in certain activities relating to Iran.
- 25.703-1 Definitions.
- 25.703-2 Iran Sanctions Act.
- 25.703-3 Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, section 106.
- 25.703-4 Waiver.

Subpart 25.8—Other International Agreements and Coordination

- 25.801 General.
- 25.802 Procedures.

Subpart 25.9—Customs and Duties

- 25.900 Scope of subpart.
- 25.901 Policy.
- 25.902 Procedures.
- 25.903 Exempted supplies.

Subpart 25.10—Additional Foreign Acquisition Regulations

- 25.1001 Waiver of right to examination of records.
- 25.1002 Use of foreign currency.

Subpart 25.11—Solicitation Provisions and Contract Clauses

- 25.1101 Acquisition of supplies.
- 25.1102 Acquisition of construction.
- 25.1103 Other provisions and clauses.

AUTHORITY: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

SOURCE: 64 FR 72419, Dec. 27, 1999, unless otherwise noted.

25.000 Scope of part.

(a) This part provides policies and procedures for—

(1) Acquisition of foreign supplies, services, and construction materials; and

(2) Contracts performed outside the United States.

(b) It implements the Buy American Act, trade agreements, and other laws and regulations.

[73 FR 10957, Feb. 28, 2008]

25.001 General.

(a) The Buy American Act—

(1) Restricts the purchase of supplies, that are not domestic end products, for use within the United States. A foreign end product may be purchased if the contracting officer determines that the price of the lowest domestic offer is unreasonable or if another exception applies (see Subpart 25.1); and

(2) Requires, with some exceptions, the use of only domestic construction materials in contracts for construction in the United States (see Subpart 25.2).

(b) The restrictions in the Buy American Act are not applicable in acquisitions subject to certain trade agreements (see Subpart 25.4). In these acquisitions, end products and construction materials from certain countries receive nondiscriminatory treatment in evaluation with domestic offers. Generally, the dollar value of the acquisition determines which of the trade agreements applies. Exceptions to the applicability of the trade agreements are described in Subpart 25.4.

(c) The test to determine the country of origin for an end product under the

25.002

48 CFR Ch. 1 (10–1–12 Edition)

Buy American Act (see the various country “end product” definitions in 25.003) is different from the test to determine the country of origin for an end product under the trade agreements, or the criteria for the report on end products manufactured outside the United States (see 25.004).

(1) The Buy American Act uses a two-part test to define a “domestic end product” or “domestic construction material” (manufactured in the United States and a formula based on cost of domestic components). The component test has been waived for acquisition of commercially available off-the-shelf items.

(2) Under the trade agreements, the test to determine country of origin is “substantial transformation” (*i.e.*, transforming an article into a new and different article of commerce, with a name, character, or use distinct from the original article).

(3) For the reporting requirement at 25.004, the only criterion is whether the place of manufacture of an end product is in the United States or outside the United States, without regard to the origin of the components.

(4) When using funds appropriated under the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5), the definition of “domestic manufactured construction material” requires manufacture in the United States but does not include a requirement with regard to the origin of the components. If the construction material consists wholly or predominantly of iron or steel, the iron or steel must be produced in the United States.

[64 FR 72419, Dec. 27, 1999, as amended at 67 FR 21535, Apr. 30, 2002; 71 FR 20306, Apr. 19, 2006; 71 FR 57377, Sept. 28, 2006; 74 FR 14626, Mar. 31, 2009; 75 FR 38691, July 2, 2010; 75 FR 53165, Aug. 30, 2010]

25.002 Applicability of subparts.

The following table shows the applicability of the subparts. Subpart 25.5 provides comprehensive procedures for offer evaluation and examples.

	Subpart	Supplies for use		Construction		Services performed	
		Inside U.S.	Outside U.S.	Inside U.S.	Outside U.S.	Inside U.S.	Outside U.S.
25.1	Buy American Act—Supplies	X					
25.2	Buy American Act—Construction Materials			X			
25.3	Contracts Performed Outside the United States		X		X		X
25.4	Trade Agreements	X	X	X	X	X	X
25.5	Evaluating Foreign Offers—Supply Contracts	X	X				
25.6	American Recovery and Reinvestment Act—Buy American Act—Construction Materials			X			
25.7	Prohibited Sources	X	X	X	X	X	X
25.8	Other International Agreements and Coordination	X	X		X		X
25.9	Customs and Duties	X					
25.10	Additional Foreign Acquisition Regulations	X	X	X	X	X	X
25.11	Solicitation Provisions and Contract Clauses	X	X	X	X	X	X

[64 FR 72419, Dec. 27, 1999, as amended at 67 FR 21535, Apr. 30, 2002; 71 FR 20306, Apr. 19, 2006; 73 FR 10957, Feb. 28, 2008; 74 FR 14626, Mar. 31, 2009]

25.003 Definitions.

As used in this part—

Caribbean Basin country means any of the following countries: Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, Bonaire, British Virgin Islands, Curacao, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saba, St. Kitts and Nevis, St. Lucia, St. Vincent

and the Grenadines, Sint Eustatius, Sint Maarten, or Trinidad and Tobago.

Caribbean Basin country end product—

(1) Means an article that—

(i)(A) Is wholly the growth, product, or manufacture of a Caribbean Basin country; or

(B) In the case of an article that consists in whole or in part of materials